

Executive Registry
8-305

25 MAY 1956

Mr. Percival F. Brundage
Deputy Director
Bureau of the Budget
Washington 25, D. C.

Dear Mr. Brundage:

In a letter of 24 May 1956 from the Legislative Counsel of this Agency to Mr. Roger Jones, we reported to the Bureau of the Budget our comments on amendments to the Atomic Energy Act of 1954 which have been proposed by the Department of Defense. In particular we indicated that the proposed amendment to Section 143, allowing interchange of information involving Restricted Data between persons who are "Q" cleared and those who are otherwise authorized for access to Restricted Data by Section 143, is urgently needed in the national interest.

In our consideration of the Department of Defense proposals, we reviewed certain situations in the relationship between this Agency and the Atomic Energy Commission, which we believe appropriate to bring to your attention at this time as they raise the possibility of a need for further legislation or legislative interpretation. The first situation has to do with security clearances for CIA personnel whose duties require access to Restricted Data. Under Section 145(b) of the Atomic Energy Act of 1954, no individual shall have access to Restricted Data until the Civil Service Commission shall have made an investigation and report, and the Commission shall determine that such access will not endanger the common defense and security, "except as authorized by the Commission or the General Manager on a determination . . . that such action is clearly consistent with the national interest. . . ." All CIA employees are carefully investigated prior to entry on duty, but the investigations are performed through this Agency's facilities. We believe it is well-established that our investigative and clearance standards are as high as those applied by any other department or agency of the Government. However, under Section 145(b), if an employee of this Agency or a person, military or civilian, assigned to

this Agency requires a "Q" clearance, he must be fully investigated by the Civil Service Commission or the FBI and a review and determination made by the Commission, unless an exception is made by the Commission or the General Manager under the language quoted above.

We believe this to be an unnecessary duplication which is both time consuming and expensive. On occasion it has prevented the assignment of classified persons to work on a timely basis on matters requiring "Q" clearance. We, therefore, suggested to the Atomic Energy Commission that the exception provided in Section 145(b) would permit the General Manager to accept our investigations and certifications for clearance of Agency employees for access to Restricted Data. A copy of a letter from the Director of Central Intelligence offering this proposal is attached for your information. The Commission responded that the exception set forth in Section 145(b) was designed for certain highly specialized cases and they doubted whether as a matter of legal authority it could be applied to a category or series of individuals. In view of this doubt, the Commission advised that they could not proceed with this proposal unless on submission of the problem the Attorney General ruled that they were clearly authorized by law to do so. However, the Commission did not believe it appropriate for them to submit this specific question to the Attorney General, and we have been informed by the Justice Department that it would be inappropriate for this Agency to request a ruling on a provision of law primarily affecting another agency. Consequently, at the present time the procedure of duplicate investigations continues. In view of our belief that such duplication is needless, we can see no present alternative to a legislative amendment clarifying Section 145(b) and specifically permitting the Commission or the General Manager to permit access to Restricted Data by groups or categories of individuals, where such action is clearly consistent with the national interest.

The second situation in which we see the need for legislative action concerns the interchange of information between persons who have "Q" clearances and those who are permitted to have access to Restricted Data under Section 143. Under that Section, the Commission may authorize its employees to permit any employee of the Department of Defense or any member of the Armed Forces to have access to Restricted Data required in the performance of his duties when so certified by the head of the appropriate agency of the Department of Defense or his designee. In large part this obviates the need for "Q" clearances under Section 145(b) for civilian and military personnel of the Department

of Defense. A primary function of this Agency is to correlate and evaluate intelligence relating to the national security, and in order to accomplish this duty the complete and timely interchange of intelligence information among the intelligence agencies of the Government is essential. However, since Section 143 provides that the Commission may authorize access to Restricted Data by Department of Defense employees, it has been interpreted that representatives of another agency, even though they themselves may have "Q" clearances from the Atomic Energy Commission, may not exchange Restricted Data with those authorized to have access under Section 143. In effect, this serves to stultify the correlation of intelligence information in the nuclear energy field, thereby hampering proper coordination and evaluation in that highly critical field.

We believe that this situation requires immediate remedial action. We have considered several legislative approaches. As noted in the opening of this letter, a proposal by the Department of Defense to amend Section 143 specifically to permit exchange of Restricted Data between persons authorized access under that Section and those authorized under Section 145(b) would solve this present difficulty, if interpreted properly, and unless other alternatives appear more suitable, we heartily indorse seeking such an amendment without delay. Other alternatives would be to amend Section 143 and put this Agency on the same basis as agencies of the Department of Defense or to amend Section 145(b) to permit interchange of information with persons otherwise authorized to have access to Restricted Data.

The two situations set forth in this letter are both important to this Agency in the discharge of its responsibilities, but the second is becoming critical, particularly as fewer and fewer Department of Defense personnel have "Q" clearances as a result of the authorization under Section 143. Therefore, it is our opinion that other considerations should not impede legislative action to permit the necessary interchange of Restricted Data between authorized Department of Defense personnel and "Q" cleared personnel in this Agency.

Sincerely,

SIGNED

C. P. CABELL
Lieutenant General, USAF
Acting Director

Attachment

*(copy of letter dated 2 Sept 55 to Adm. Ettinger)
signed CPC as A/ACT*

Mr. Percival F. Brundage, Bureau of the Budget

DRAFTED BY: Lawrence R. Houston

CLEARED BY: Herbert Scoville, Jr.
Assistant Director for
Scientific Intelligence

Deputy Director of Security

Norman S. Paul
Legislative Counsel

ST
ILLEGIB

cc: Admiral Lewis L. Strauss, AEC Chairman

cc: Mr. Frederick Schult, Bureau of the Bud

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ER 8-2966

24 May 1956

Mr. Roger W. Jones
Assistant Director for
Legislative Reference
Bureau of the Budget
Washington 25, D. C.

Dear Mr. Jones:

The Bureau of the Budget has requested the comments of this Agency on amendments to the Atomic Energy Act of 1954 which were proposed by the Department of Defense in a submission to the Bureau dated 30 April 1956.

This Agency has no objection to the amendments proposed to Sections 142c, 142d, 144a and 144b of the Atomic Energy Act of 1954.

With respect to the proposed amendment to Section 143 of that Act, this Agency strongly endorses the recommendation of the Department of Defense, on the assumption that we correctly understand the intended coverage of this proposed amendment. As we interpret it, this amendment would permit employees of any Government agency who have been ~~not~~ cleared under the provisions of Section 145b of the Atomic Energy Act of 1954 to exchange Restricted Data with personnel of the Department of Defense who are authorized to have access to such data under the provisions of Section 143 of that Act. We note that the present language of Section 143, which would remain the same under the proposed amendment, provides that appropriately certified personnel of the Department of Defense may have access to Restricted Data. Although the section is silent on the question of whether such personnel may directly exchange such data together with ~~not~~ cleared personnel of other agencies, we assume that such exchange is contemplated under the proposed amendment, as we understand it is now authorized under the existing provisions of Section 143 insofar as representatives of the Atomic Energy Commission and the Department of Defense are concerned.

Assuming that the above interpretation is correct, and that the agencies affected will be authorized to make this point clear in establishing the legislative history for this proposal, this Agency strongly urges that this proposed amendment to Section 143 be forwarded to the Congress as soon as possible during the current session, irrespective of any determination as to the suitability of the other amendments proposed by the Department of Defense.

Sincerely yours,

/s/ Norman S. Paul

NORMAN S. PAUL
Legislative Counsel

CONCURRED BY:

Lawrence R. Houston 23 May 56
General Counsel

Herbert Scoville, Jr. 23 May 56
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STAT 23 May 56
Deputy Director of Security

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